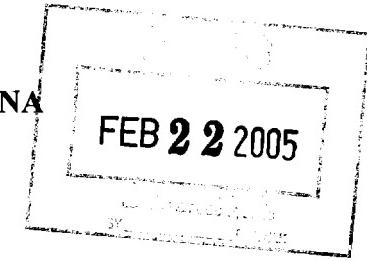


**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:05-CV-48 FL (1)**



RICHARD P. NORDAN, as Ancillary )  
Administrator for the separate Estates of )  
STEPHEN S. HELVENSTON, MIKE R. )  
TEAGUE, JERKO GERALD ZOVKO and )  
WESLEY J.K. BATALONA, )  
Plaintiffs, )  
v. )  
BLACKWATER SECURITY )  
CONSULTING, LLC, a Delaware Limited )  
Liability Company; BLACKWATER )  
LODGE AND TRAINING CENTER, INC., )  
a Delaware Corporation, JUSTIN L. )  
MCQUOWN, an individual; and THOMAS )  
POWELL, an individual, )  
Defendants. )

**AFFIDAVIT OF MARC P. MILES  
IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO BLACKWATER'S  
MOTION TO DISMISS AND  
REQUEST FOR JUDICIAL NOTICE**

**STATE OF CALIFORNIA**

Marc P. Miles, being first duly sworn upon oath states and alleges as follows:

1. I am an associate in the law firm of Callahan & Blaine, APLC, attorneys for the Plaintiff in the above-entitled action. My address is 3 Hutton Centre Drive, Suite 900, Santa Ana, California 92707. My telephone number is (714) 241-4444. I make and submit this Affidavit in support of the Plaintiff's Opposition to Blackwater's Motion to Dismiss and Request for Judicial Notice.

2. The following facts are stated from my personal knowledge.

3. In connection with drafting the Plaintiff's Opposition to the Blackwater Defendants' Motion to Dismiss, I personally searched the North Carolina Secretary of State web-page located at: <http://www.secretary.state.nc.us/corporations/ThePage.aspx>.

4. In doing so, I was able to review the Secretary of State's on-line information concerning Blackwater Security Consulting, LLC. More specifically, on February 17, 2005, I downloaded Blackwater Security Consulting's Application for Certificate of Authority from the North Carolina Secretary of State web-page.

5. Attached hereto as Exhibit "A" is a true and correct copy of the State of North Carolina Department of the Secretary of State Application for Certificate of Authority for Limited Liability Company for Blackwater Security Consulting, LLC.

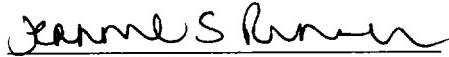
6. On behalf of the Plaintiff in this action, I respectfully request that this court takes judicial notice of the Certificate of Authority for Limited Liability Company for Blackwater Security Consulting, LLC, pursuant to Federal Rules of Evidence 201.

7. Exhibit "A" is a document of which this court may take judicial notice, in that, considering it is a public document obtained directly from the North Carolina Secretary of State web-page and may be readily viewed and/or download by the parties hereto and the court, it is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." See *Federal Rules of Evidence 201(b)*.

FURTHER AFFIANT SAITH NAUGHT.

  
MARC P. MILES

Sworn to and subscribed before me  
This the 21<sup>st</sup> day of February, 2005

  
Jeannie S. Rinner

Notary Public

G:\2525\2525-02\Pleadings\Federal\Affidavit of MPM 2.wpd



**State of North Carolina  
Department of the Secretary of State**

SOSID: 692831  
 Date Filed: 9/29/2003 3:41:00 PM  
 Elaine F. Marshall  
 North Carolina Secretary of State  
 C200326800054

**APPLICATION FOR CERTIFICATE OF AUTHORITY  
FOR LIMITED LIABILITY COMPANY**

Pursuant to §57C-7-04 of the General Statutes of North Carolina, the undersigned limited liability company hereby applies for a Certificate of Authority to transact business in the State of North Carolina, and for that purpose submits the following:

1. The name of the limited liability company is Blackwater Security Consulting LLC; and if the limited liability company name is unavailable for use in the State of North Carolina, the name the limited liability company wishes to use is \_\_\_\_\_
2. The state or country under whose laws the limited liability company was formed is: Delaware
3. The date of formation was 01/28/02; its period of duration is: perpetual
4. Principal office information: (Select either a or b.)

- a.  The limited liability company has a principal office.

The street address and county of the principal office of the limited liability company is:

Number and Street 850 Puddin Ridge Road  
 City, State, Zip Code Moyock, NC 27958 County CAMDEN

The mailing address, *if different from the street address*, of the principal office of the corporation is:

- b.  The limited liability company does not have a principal office.

5. The street address and county of the registered office in the State of North Carolina is:

Number and Street 850 Puddin Ridge Road  
 City, State, Zip Code Moyock, NC 27958 County CAMDEN

6. The mailing address, *if different from the street address*, of the registered office in the State of North Carolina is:

7. The name of the registered agent in the State of North Carolina is: GARY JACKSON

APPLICATION FOR CERTIFICATE OF AUTHORITY  
Page 2

8. The names, titles, and usual business addresses of the current managers of the limited liability company are:  
*(use attachment if necessary)*

Name

Business Address

Blackwater Lodge and Training  
Center, INC. (sole Member  
Manager)

850 Puddin Ridge Rd; Moyock NC 27958

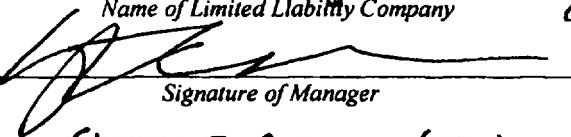
9. Attached is a certificate of existence (or document of similar import), duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or country of formation. The Certificate of Existence must be less than six months old. A photocopy of the certification cannot be accepted.

10. If the limited liability company is required to use a fictitious name in order to transact business in this State, a copy of the resolution of its managers adopting the fictitious name is attached.

11. This application will be effective upon filing, unless a delayed date and/or time is specified: \_\_\_\_\_

This the 17<sup>th</sup> day of September, 2003

Blackwater Security Consulting LLC  
(by its sole member/Mgr. Blackwater Lodge & Training  
Center, Inc.)  
Name of Limited Liability Company

  
Signature of Manager

Steven F. Capace (secretary of  
Manager)  
Type or Print Name

Notes:

- I. Filing fee is \$250. This document must be filed with the Secretary of State.

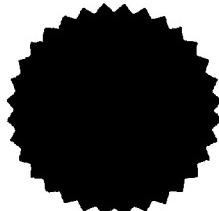
# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "BLACKWATER SECURITY CONSULTING LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRD DAY OF SEPTEMBER, A.D. 2003.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3482975 8300

AUTHENTICATION: 2613700

030569264

DATE: 09-03-03

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served the foregoing **Affidavit of Marc P. Miles in Support of Plaintiff's Opposition to Blackwater's Motion to Dismiss and Request for Judicial Notice** in the above-entitled action on all of parties to this cause by depositing a copy, postage prepaid, in the United States Mail, addressed as follows:

Fred F. Fielding  
Margaret A. Ryan  
*Attorneys for Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc.*  
Wiley Rein & Fielding LLP  
1776 K Street, NW  
Washington, DC 20006

Kirk G. Warner  
Mark A. Ash  
*Attorneys for Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc.*  
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Raleigh, NC 27602

Ralph J. Caccia  
William C. Crenshaw  
Don R. Berthiaume  
*Attorneys for Justin L. McQuown*  
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901 New York Avenue, NW, 3<sup>rd</sup> Floor  
Washington, DC 20001

Patricia L. Holland  
Rachel Esposito  
*Attorneys for Justin L. McQuown*  
Cranfill, Sumner & Hartzog, L.L.P.  
P. O. Box 27808  
Raleigh, NC 27611-7808

This is 20<sup>th</sup> day of February, 2005.

  
William B. Bystrynski  
Kirby & Holt, L.L.P.